

REMARKS

I. Status of Claims

Claims 1-37, 45-54, and 65-85 are withdrawn.

Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. Applicants reserve the right to prosecute any cancelled or amended subject matter in divisional or continuation applications that relate to this application. No new matter is added.

II. Restriction Requirement

The Examiner has required an election between the following groups:

- I. Claims 1-27, drawn to a microorganism comprising a modified *pckA* gene;
- II. Claims 28-37, drawn to an isolated nucleic acid comprising at least one sequence set forth in a nucleic acid sequence selected from the group consisting of SEQ ID NO:1, SEQ ID NO:3, SEQ ID NO:5, SEQ ID NO:7, SEQ ID NO:9, SEQ ID NO:11, SEQ ID NO:13, SEQ ID NO:15, SEQ ID NO:39, SEQ ID NO:40, SEQ ID NO:42, SEQ ID NO:44, SEQ ID NO:46, SEQ ID NO:48, SEQ ID NO:50, SEQ ID NO:37, SEQ ID NO:25, SEQ ID NO:21, SEQ ID NO:50, SEQ ID NO:23, SEQ ID NO:27, SEQ ID NO:19, SEQ ID NO:31, SEQ ID NO:48, SEQ ID NO:46, SEQ ID NO:35, and SEQ ID NO:33;
- III. Claims 38-44 and 55-64, drawn to a method for enhancing production of at least one protein by a microorganism;
- IV. Claims 45-54, drawn to a method for obtaining an altered *Bacillus* strain expressing a protein of interest;
- V. Claims 65-74, drawn to a method for enhancing the expression of a protein of interest in *Bacillus*;
- VI. Claims 75-81, drawn to a method for enhancing the expression of a protein of

interest in *Bacillus*; and,

- VII. Claims 82-85, drawn to a method for enhancing the expression of a protein of interest in *Bacillus*.

The Examiner states that the inventions listed in Groups I-VII do not relate to a single general inventive concept because they lack the same or corresponding technical features. In response, Applicants elect Group III, claims 38-44 and 55-64, without traverse, for examination in the instant application.

The Examiner has also required that Applicants elect a single nucleic acid SEQ ID NO and its corresponding amino acid SEQ ID NO as recited in claims 28, 29, 33, 34, 53 and 54, arguing that these sequences are independent or distinct because they represent structurally different nucleic acid/amino acid sequences, and there is no shared special technical feature between these nucleic/amino acid sequences.

Given the election of Group III, claims 38-44 and 55-64, Applicants do not believe that an election of a single nucleic acid/amino acid sequence is required, as none of the SEQ ID NOs are specifically recited in any of the elected claims. Instead, the SEQ ID NOs are recited in claims relating to Groups II or IV. However, in the case that the Examiner continues to require the election of a single nucleic acid/amino acid sequence, Applicants provisionally elect SEQ ID NO:27 and SEQ ID NO:28. SEQ ID NO:27 represents the *pckA* nucleic acid coding sequence and SEQ ID NO:28 represents the deduced amino acid sequence of the PckA protein.

Applicants expressly reserve the right under 35 USC 121 to file divisional applications directed to the nonelected subject matter.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

CONCLUSION

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 07-1048** referencing **GC836-US**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at the number listed below.

Date: June 21, 2011

Respectfully submitted,

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